

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 23-053 (ADC)

[18] MICHAEL AGRINSONI-MEJIAS,
T/N Michael Agrinsoni-Mejia

Defendant.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
RE: RULE 11(c)(1)(B) GUILTY PLEA HEARING

I. Procedural Background:

On February 16, 2023, defendant Michael Agrinsoni-Mejia was charged in a multi-count and multi-defendant indictment. (Docket No. 3). He agreed to plead guilty to Count One of said indictment.

Count One charges that beginning on a date unknown, but not later than in or about 2017, up to and until the date of the return of the instant indictment, in the District of Puerto Rico, elsewhere and within the jurisdiction of this Court, Mr. Agrinsoni-Mejia, did knowingly and intentionally combine, conspire, confederate and agree with each other and others, known and unknown to the Grand Jury, to possess with intent to distribute and to distribute five (5) kilograms or more of mixture or substance containing a detectable amount of cocaine, a Schedule II Narcotic Drug Controlled Substance,

1 aboard a vessel subject to the jurisdiction of the United States. All in violation of Title 46,
2 U.S.C. §§ 70503(a)(1) and 70506(b).

3 Defendant appeared before me, assisted by the court interpreter, on August 22,
4 2024, after the Rule 11 hearing was referred to me by the Presiding District Judge. *See*
5 *United States v. Woodard*, 387 F.3d 1329 (11th Cir. 2004) (magistrate judge had
6 authority to conduct Rule 11 guilty plea hearing with consent of defendant). He was
7 advised of the purpose of the hearing and placed under oath with instructions that his
8 answers must be truthful lest he subject himself to possible charges of perjury or making
9 a false statement.
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11 **II. Consent to Proceed Before a Magistrate Judge:**

12 Defendant was provided with a Waiver of Right to Trial by Jury form, which he
13 signed.¹ He was advised of his right to hold all proceedings, including the change of plea
14 hearing, before a district court judge. He received an explanation of the differences
15 between the scope of jurisdiction and functions of a district judge and a magistrate judge.
16 He was informed that if he elected to proceed before me, a magistrate judge, that I would
17 conduct the hearing and prepare a report and recommendation, subject to review and
18 approval of the District Judge. The defendant then voluntarily consented to proceed
19 before me.
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25 ¹ The form entitled Consent to Proceed Before a United States Magistrate Judge in a Felony Case for
26 Pleading Guilty (Fed. R. Crim. P. 11) and Waiver of Jury Trial, signed and consented by both parties is
27 made part of the record.
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III. Proceedings Under Rule 11 of the Federal Rules of Criminal Procedure:

Rule 11 of the Federal Rules of Criminal Procedure governs the acceptance of guilty pleas to federal criminal violations. Pursuant to Rule 11, in order for a plea of guilty to constitute a valid waiver of the defendant's right to trial, the guilty plea must be knowing and voluntary. *United States v. Hernandez-Wilson*, 186 F.3d 1, 5 (1st Cir. 1999). "Rule 11 was intended to ensure that a defendant who pleads guilty does so with an 'understanding of the nature of the charge and consequences of his plea.'" *United States v. Cotal-Crespo*, 47 F.3d 1, 4 (1st Cir. 1995) (quoting *McCarthy v. United States*, 394 U.S. 459, 467 (1969)). There are three core concerns in a Rule 11 proceeding: 1) absence of coercion; 2) understanding of the charges; and 3) knowledge of the consequences of the guilty plea. *Cotal-Crespo*, 47 F.3d at 4 (citing *United States v. Allard*, 926 F.2d 1237, 1244 (1st Cir. 1991)).

A. Competence to Enter a Guilty Plea

I questioned the defendant about his age, education, employment, history of any treatment for mental illness or addiction, use of any medication, drugs, or alcohol, and his understanding of the purpose of the hearing, all in order to ascertain his capacity to understand, answer and comprehend the change of plea colloquy. I confirmed that the defendant received the indictment and fully discussed the charges with his attorney and was satisfied with the advice and representation he received. In addition, I further inquired whether defendant's counsel or counsel for the government had any doubt as to his competency to plead, receiving answers from both that the defendant was competent

1 to enter a plea. After considering the defendant's responses, and observing his demeanor,
2 a finding was made that Mr. Agrinoni-Mejia was competent to plead and fully aware of
3 the purpose of the hearing.

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5 **B. Maximum Penalties**

6 Upon questioning, the defendant expressed his understanding of the maximum
7 penalties prescribed by statute for the offense to which he was pleading guilty, namely:
8 a term of imprisonment which shall not be less than ten (10) years and up to life , a fine
9 not to exceed ten million dollars (\$10,000,000.00), and a supervised release term of at
10 least five (5) years in addition to any term of incarceration.

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12 The defendant also understood that a Special Monetary Assessment of \$100.00
13 would be imposed, to be deposited in the Crime Victim Fund, pursuant to Title 18, United
14 States Code, Section 3013(a). The court explained the nature of supervised release and
15 the consequences of revocation. The defendant indicated that he understood the
16 maximum penalties for Count One and the potential consequences of the guilty plea.

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18 **C. Plea Agreement**

19 Mr. Agrinoni-Mejia was shown his plea agreement, and the plea agreement
20 supplement, which are part of the record, and identified his initials and signatures. He
21 confirmed that he had the opportunity to read and discuss the plea agreement with his
22 attorney before he signed it, that it represented the entirety of his understanding with
23 the government, that he understood its terms, and that no one had made any other or
24 different promises or assurances to induce him to plead guilty.

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26 The defendant was then admonished, pursuant to Fed. R. Crim. P. 11(c)(1)(B), and
27 expressed his understanding that the terms of the plea agreement are merely
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1 recommendations to the court, and that the district judge who will preside over the
2 sentencing hearing can reject the recommendation without permitting the defendant to
3 withdraw his guilty plea, and impose a sentence that is more severe than the defendant
4 might anticipate. The defendant was specifically informed that the court, after
5 considering the applicable Sentencing Guidelines, could impose a sentence different
6 from any estimate in the plea agreement or provided by his attorney, and that the court
7 had the authority to impose a sentence that is more severe or less severe than the
8 sentence called for by the Sentencing Guidelines. The defendant was advised, and
9 understood, that the Sentencing Guidelines are no longer mandatory and are thus
10 considered advisory, and that during sentencing the court will consider the sentencing
11 criteria found at Title 18, United States Code, Section 3553(a).
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14 The defendant was advised that under some circumstances he or the government
15 may have the right to appeal the sentence the court imposes, but that pursuant to the
16 plea agreement the defendant will waive his right to appeal both his sentence and his
17 conviction if the court adopts the plea agreement and sentences him according to its
18 terms and conditions.
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20 **D. Waiver of Constitutional Rights**

21 Mr. Agrinoni-Mejia was specifically advised that he has the right to persist in a
22 plea of not guilty, and if he does so persist that he has the right to a speedy and public
23 trial by jury, or trial before a judge sitting without a jury if the court and the government
24 so agree; that at trial he would be presumed innocent and the government would have to
25 prove his guilt beyond a reasonable doubt; that he would have the right to the assistance
26 of counsel for his defense, and if he could not afford an attorney the court would appoint
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1 one to represent him throughout all stages of the proceedings; that at trial he would have
2 the right to hear and cross examine the government's witnesses, the right to decline to
3 testify unless he voluntarily elected to do so, and the right to the issuance of subpoenas
4 or compulsory process to compel the attendance of witnesses to testify. He was further
5 informed that if he decided not to testify or put on evidence at trial, the failure to do so
6 could not be used against him, and that at trial the jury must return a unanimous verdict
7 before he could be found guilty or not guilty.
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9 The defendant specifically acknowledged understanding these rights and
10 understanding that by entering a plea of guilty there would be no trial and he will be
11 waiving or giving up the rights I explained.
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13 The defendant was informed that parole has been abolished and that any sentence
14 of imprisonment must be served, and that his guilty plea may result in loss of important
15 civil rights, such as the right to vote, to hold public office, to serve on a jury, and to
16 possess a firearm. The defendant confirmed that he understood these consequences of
17 the guilty plea.
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19 **E. Factual Basis for the Guilty Plea**

20 Defendant was read in open court Count One of the indictment and provided an
21 explanation of the elements of the offense. The meaning of terms used in the indictment
22 was explained. Further, upon questioning, the defendant admitted to facts constituting
23 all of the elements of the offense charged in Count One and that the evidence the
24 government had available to establish, in the event defendant elected to go to trial, the
25 defendant's guilt beyond a reasonable doubt.
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1 **F. Voluntariness**

2 The defendant indicated that he was not being forced to plead guilty but was
3 entering such a plea freely and voluntarily because in fact he is guilty, and that no one
4 had threatened him or offered a thing of value in exchange for his plea. He acknowledged
5 that no one had made any different or other promises in exchange for his guilty plea,
6 other than the recommendations set forth in the plea agreement. Throughout the hearing
7 the defendant was able to consult with his attorney.
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9 **IV. Conclusion:**

10 The defendant, by consent, appeared before me pursuant to Rule 11 of the Federal
11 Rules of Criminal Procedure, and entered a plea of guilty as to Count One of the
12 indictment. After cautioning and examining the defendant under oath and in open court
13 concerning each of the subject matters mentioned in Rule 11, I find that the defendant,
14 Michael Agrinioni-Mejia is competent to enter this guilty plea, is aware of the nature of
15 the offense charged and the maximum statutory penalties that it carries, understands
16 that the charge is supported by evidence and a basis in fact, has admitted to the elements
17 of the offense, and has done so in an intelligent and voluntary manner with full
18 knowledge of the consequences of his guilty plea. Therefore, I recommend that the court
19 accept the guilty plea and that the defendant be adjudged guilty as to Count One of the
20 indictment.
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23 This report and recommendation is filed pursuant to 28 U.S.C. § 636(b)(1)(B) and
24 Rule 72(d) of the Local Rules of this Court. Any objections to the same must be specific
25 and must be filed with the Clerk of Court **within 14 days**. Failure to file timely and
26 specific objections to the report and recommendation is a waiver of the right to appellate
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1 review. *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Davet v. Maccorone*, 973 F.2d 22,
2 30–31 (1st Cir. 1992); *Paterson-Leitch Co. v. Mass. Mun. Wholesale Elec. Co.*, 840 F.2d
3 985 (1st Cir. 1988); *Borden v. Sec’y of Health & Human Servs.*, 836 F.2d 4, 6 (1st Cir.
4 1987).

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6 **IT IS SO RECOMMENDED.**

7 In San Juan, Puerto Rico this 23rd day of August, 2024.

8 S/Héctor L. Ramos-Vega
9 HÉCTOR L. RAMOS-VEGA
10 UNITED STATES MAGISTRATE JUDGE
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